

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION**

**JESUS MARTINEZ AND
MARIA SARABIA,
Plaintiffs**

v.

**STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY
Defendant**

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CIVIL ACTION NO.: 7:21-cv-00145

**DEFENDANT STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY'S NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendant State Farm Mutual Automobile Insurance Company ("State Farm") files this Notice of Removal pursuant to 28 U.S.C. § 1446(a) and respectfully shows the following:

Procedural Background

1. On July 20, 2021, Plaintiff Jesus Martinez and Maria Sarabia ("Plaintiff") filed their Original Petition ("Original Petition") against diverse Defendant State Farm, styled Cause No. CV57790; *Jesus Martinez v. Maira Sarabia v. State Farm Mutual Automobile Insurance Company*, in the District Court 142nd Judicial District Court of Midland County, Texas.

Nature of the Suit

2. This lawsuit involves claims for personal injuries arising out of an automobile accident which occurred on May 2, 2020. Plaintiffs claim a vehicle being driven by Tyler Yarbrough veered into the opposite lane of travel and struck Plaintiffs' vehicle. Plaintiffs' Original Petition asserts claims against State Farm for breach of contract, a breach of the duty of good faith and fair dealing, and for violations of the Texas Insurance Code and the Deceptive

Trade Practices Act (the “DPTA”). Plaintiffs’ Original Petition seeks actual damages, exemplary damages, pre and post-judgement interest, and all costs of court.

Basis for Removal

3. Removal is proper under 28 U.S.C. §1332 because there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

4. There is complete diversity of citizenship between the parties. At the time State Farm was served with the citation on July 28, 2021, and as of the date of filing this Notice, State Farm was and is a citizen of Illinois. Defendant was incorporated under the laws of the State of Illinois, and its principal place of business is in Bloomington, Illinois. Accordingly, State Farm was and is considered an out-of-state citizen for diversity jurisdiction purposes.

5. Upon information and belief, Plaintiffs were citizens of Texas when they filed their Original Petition, and continue to be citizens of Texas. (*See* Plaintiffs’ Original Petition at § II).

6. Further, this Court has diversity jurisdiction over this matter because the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Plaintiffs plead in their Original Petition damages over \$250,000.00 but not more than \$1,000,000. (*See* Plaintiffs’ Original Petition at § IV). Further, Plaintiffs plead for the recovery of damages pursuant to alleged extra-contractual common law and statutory violations of the Texas Insurance Code. Finally, Plaintiffs allege they are entitled to collect damages pursuant to two different uninsured motorist policies from State Farm. (*See* Plaintiffs’ Original Petition at § V)

The Removal is Procedurally Correct

7. Plaintiffs filed suit against Defendant State Farm in state court on July 20, 2021. State Farm was not served with citation until July 28, 2021.

8. Removal is timely pursuant to 28 U.S.C. § 1446(b) and (c) and *Thompson v. Deutsche Bank Nat. Trust Co.*, 775 F.3d 298 (5th Cir. 2014). In *Thompson*, the Fifth Circuit held that a defendant's right to removal under 28 U.S.C. § 1446(b) and (c) runs from the date it is formally served with process. Here, State Farm removed the case within thirty days of the date it was served.

9. Venue is proper in this district under 28 U.S.C. § 1446(a) because this district and division embrace the place in which the removed action has been pending and because a substantial part of the events giving rise to Plaintiffs' claims allegedly occurred in this district.


10. Pursuant to 28 U.S.C. § 1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this notice.

11. Pursuant to 28 U.S.C. § 1446(d), promptly after Defendant State Farm files this Notice, written notice of filing of this Notice of Removal will be given to Plaintiffs, the adverse parties.

12. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice will be filed with the Clerk of the 142nd Judicial District Court of Midland County, Texas, promptly after Defendant State Farm files this Notice.

WHEREFORE, Defendant State Farm Mutual Automobile Insurance Company requests that this action be removed from the 142nd Judicial District Court of Midland County, Texas to the United States District Court for Western District of Texas, Midland/Odessa Division, and that this Court enter such further orders as may be necessary and appropriate.

Respectfully submitted,

By: 

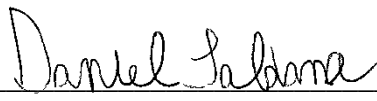
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Defendant State Farm Mutual Automobile Insurance Company's Notice of Removal was filed electronically with the United States District Court for the Western District of Texas, Midland/Odessa Division, with notice of case activity to be generated and sent electronically by the Clerk of the Court with ECF notice being sent and a copy mailed *via certified mail* on this 27th day of August, 2021, addressed to those who do not receive notice from the Clerk of the Court.

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